

DEPARTMENT OF STATE REVENUE

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LETTER OF FINDINGS NUMBER: 98-0150P

Gross Income Tax Penalty

Calendar Years 1992, 1993, 1994

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ISSUE

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d), 45 IAC 15-11-2

STATEMENT OF FACTS

Taxpayer, incorporated in Pennsylvania on April 21, 1989, does business and has a sales office in Indiana.

The audit covers calendar years 1992, 1993, and 1994.

I. Tax Administration – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in reporting its gross income to Indiana and whether the taxpayer is subject to a penalty.

In its brief, taxpayer states that the 1987 through 1990 audit was not settled until April 1995, which was after the 1992 through 1994 returns were submitted. Taxpayer further states that additional issues were involved in the 1992 through 1994 audit that were not present in the prior audit.

A review of the current audit indicates that the audit began on June 20, 1996, more than a year after the prior settlement. Taxpayer, however, failed to amend its subsequent income tax returns based upon the agreement contained with the prior audit. Although the taxpayer has an Indiana location, it failed to report its gross income, the issue which is clear in the Indiana Code and Regulations.

FINDING

The taxpayer's request for penalty waiver is denied.